

COMMITTEE ON FEDERALISM AND STATES' RIGHTS

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1318

(Reference to Senate engrossed bill)

1 Page 2, after line 23, insert:

2 "Sec. 3. Section 36-2153, Arizona Revised Statutes, is amended to
3 read:

4 36-2153. Informed consent; requirements; information; website;
5 signs; violation; civil relief; statute of
6 limitations

7 A. An abortion shall not be performed or induced without the voluntary
8 and informed consent of the woman on whom the abortion is to be performed or
9 induced. Except in the case of a medical emergency and in addition to the
10 other requirements of this chapter, consent to an abortion is voluntary and
11 informed only if all of the following are true:

12 1. At least twenty-four hours before the abortion, the physician who
13 is to perform the abortion or the referring physician has informed the woman,
14 orally and in person, of:

15 (a) The name of the physician who will perform the abortion.

16 (b) The nature of the proposed procedure or treatment.

17 (c) The immediate and long-term medical risks associated with the
18 procedure that a reasonable patient would consider material to the decision
19 of whether or not to undergo the abortion.

20 (d) Alternatives to the procedure or treatment that a reasonable
21 patient would consider material to the decision of whether or not to undergo
22 the abortion.

23 (e) The probable gestational age of the unborn child at the time the
24 abortion is to be performed.

25 (f) The probable anatomical and physiological characteristics of the
26 unborn child at the time the abortion is to be performed.

1 (g) The medical risks associated with carrying the child to term.

2 2. At least twenty-four hours before the abortion, the physician who
3 is to perform the abortion, the referring physician or a qualified physician,
4 physician assistant, nurse, psychologist or licensed behavioral health
5 professional to whom the responsibility has been delegated by either
6 physician has informed the woman, orally and in person, that:

7 (a) Medical assistance benefits may be available for prenatal care,
8 childbirth and neonatal care.

9 (b) The father of the unborn child is liable to assist in the support
10 of the child, even if he has offered to pay for the abortion. In the case of
11 rape or incest, this information may be omitted.

12 (c) Public and private agencies and services are available to assist
13 the woman during her pregnancy and after the birth of her child if she
14 chooses not to have an abortion, whether she chooses to keep the child or
15 place the child for adoption.

16 (d) It is unlawful for any person to coerce a woman to undergo an
17 abortion.

18 (e) The woman is free to withhold or withdraw her consent to the
19 abortion at any time without affecting her right to future care or treatment
20 and without the loss of any state or federally funded benefits to which she
21 might otherwise be entitled.

22 (f) The department of health services maintains a website that
23 describes the unborn child and lists the agencies that offer alternatives to
24 abortion.

25 (g) The woman has a right to review the website and that a printed
26 copy of the materials on the website will be provided to her free of charge
27 if she chooses to review these materials.

28 (h) IT MAY BE POSSIBLE TO REVERSE THE EFFECTS OF A MEDICATION ABORTION
29 IF THE WOMAN CHANGES HER MIND BUT THAT TIME IS OF THE ESSENCE.

30 (i) INFORMATION ON AND ASSISTANCE WITH REVERSING THE EFFECTS OF A
31 MEDICATION ABORTION IS AVAILABLE ON THE DEPARTMENT OF HEALTH SERVICES'
32 WEBSITE.

1 3. The information in paragraphs 1 and 2 of this subsection is
2 provided to the woman individually and in a private room to protect her
3 privacy and to ensure that the information focuses on her individual
4 circumstances and that she has adequate opportunity to ask questions.

5 4. The woman certifies in writing before the abortion that the
6 information required to be provided pursuant to paragraphs 1 and 2 of this
7 subsection has been provided.

8 B. If a medical emergency compels the performance of an abortion, the
9 physician shall inform the woman, before the abortion if possible, of the
10 medical indications supporting the physician's judgment that an abortion is
11 necessary to avert the woman's death or to avert substantial and irreversible
12 impairment of a major bodily function.

13 C. The department of health services shall establish ~~a website within~~
14 ~~ninety days after the effective date of this amendment to this section~~ and
15 shall annually update ~~the A website. The website must include~~ **THAT INCLUDES**
16 a link to a printable version of all materials listed on the website. The
17 materials must be written in an easily understood manner and printed in a
18 typeface that is large enough to be clearly legible. The website must
19 include all of the following materials:

20 1. Information that is organized geographically by location and that
21 is designed to inform the woman about public and private agencies and
22 services that are available to assist a woman through pregnancy, at
23 childbirth and while her child is dependent, including adoption agencies.
24 The materials shall include a comprehensive list of the agencies, a
25 description of the services they offer and the manner in which these agencies
26 may be contacted, including the agencies' telephone numbers and website
27 addresses.

28 2. Information on the availability of medical assistance benefits for
29 prenatal care, childbirth and neonatal care.

30 3. A statement that it is unlawful for any person to coerce a woman to
31 undergo an abortion.

1 4. A statement that any physician who performs an abortion on a woman
2 without obtaining the woman's voluntary and informed consent or without
3 affording her a private medical consultation may be liable to the woman for
4 damages in a civil action.

5 5. A statement that the father of a child is liable to assist in the
6 support of that child, even if the father has offered to pay for an abortion,
7 and that the law allows adoptive parents to pay costs of prenatal care,
8 childbirth and neonatal care.

9 6. Information that is designed to inform the woman of the probable
10 anatomical and physiological characteristics of the unborn child at two-week
11 gestational increments from fertilization to full term, including pictures or
12 drawings representing the development of unborn children at two-week
13 gestational increments and any relevant information on the possibility of the
14 unborn child's survival. The pictures or drawings must contain the
15 dimensions of the unborn child and must be realistic and appropriate for each
16 stage of pregnancy. The information provided pursuant to this paragraph must
17 be objective, nonjudgmental and designed to convey only accurate scientific
18 information about the unborn child at the various gestational ages.

19 7. Objective information that describes the methods of abortion
20 procedures commonly employed, the medical risks commonly associated with each
21 procedure, the possible detrimental psychological effects of abortion and the
22 medical risks commonly associated with carrying a child to term.

23 8. INFORMATION ON THE POTENTIAL ABILITY OF QUALIFIED MEDICAL
24 PROFESSIONALS TO REVERSE A MEDICATION ABORTION, INCLUDING INFORMATION
25 DIRECTING WOMEN WHERE TO OBTAIN FURTHER INFORMATION AND ASSISTANCE IN
26 LOCATING A MEDICAL PROFESSIONAL WHO CAN AID IN THE REVERSAL OF A MEDICATION
27 ABORTION.

28 D. An individual who is not a physician shall not perform a surgical
29 abortion.

30 E. A person shall not write or communicate a prescription for a drug
31 or drugs to induce an abortion or require or obtain payment for a service
32 provided to a patient who has inquired about an abortion or scheduled an

1 abortion until the expiration of the twenty-four-hour reflection period
2 required by subsection A of this section.

3 F. A person shall not intimidate or coerce in any way any person to
4 obtain an abortion. A parent, a guardian or any other person shall not
5 coerce a minor to obtain an abortion. If a minor is denied financial support
6 by the minor's parents, guardians or custodian due to the minor's refusal to
7 have an abortion performed, the minor is deemed emancipated for the purposes
8 of eligibility for public assistance benefits, except that the emancipated
9 minor may not use these benefits to obtain an abortion.

10 G. An abortion clinic as defined in section 36-449.01 shall
11 conspicuously post signs that are visible to all who enter the abortion
12 clinic, that are clearly readable and that state it is unlawful for any
13 person to force a woman to have an abortion and a woman who is being forced
14 to have an abortion has the right to contact any local or state law
15 enforcement or social service agency to receive protection from any actual or
16 threatened physical, emotional or psychological abuse. The signs shall be
17 posted in the waiting room, consultation rooms and procedure rooms.

18 H. A person shall not require a woman to obtain an abortion as a
19 provision in a contract or as a condition of employment.

20 I. A physician who knowingly violates this section commits an act of
21 unprofessional conduct and is subject to license suspension or revocation
22 pursuant to title 32, chapter 13 or 17.

23 J. In addition to other remedies available under the common or
24 statutory law of this state, any of the following may file a civil action to
25 obtain appropriate relief for a violation of this section:

26 1. A woman on whom an abortion has been performed without her informed
27 consent as required by this section.

28 2. The father of the unborn child if married to the mother at the time
29 she received the abortion, unless the pregnancy resulted from the plaintiff's
30 criminal conduct.

1 3. The maternal grandparents of the unborn child if the mother was not
2 at least eighteen years of age at the time of the abortion, unless the
3 pregnancy resulted from the plaintiff's criminal conduct.

4 K. A civil action filed pursuant to subsection J of this section shall
5 be brought in the superior court in the county in which the woman on whom the
6 abortion was performed resides and may be based on a claim that failure to
7 obtain informed consent was a result of simple negligence, gross negligence,
8 wantonness, wilfulness, intention or any other legal standard of care.
9 Relief pursuant to subsection J of this section includes the following:

10 1. Money damages for all psychological, emotional and physical
11 injuries resulting from the violation of this section.

12 2. Statutory damages in an amount equal to five thousand dollars or
13 three times the cost of the abortion, whichever is greater.

14 3. Reasonable attorney fees and costs.

15 L. A civil action brought pursuant to this section must be initiated
16 within six years after the violation occurred."

17 Amend title to conform

and, as so amended, it do pass

KELLY TOWNSEND
Chairman

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3/11/15
H:laa

1318kt
03/04/2015
11:19 AM
C: mjh